

SECOND REGULAR SESSION

# SENATE BILL NO. 814

96TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BROWN.

Read 1st time February 20, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5868S.011

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## AN ACT

To repeal sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 60.595, 60.610, and 60.620, RSMo, and to enact in lieu thereof ten new sections relating to the land survey program.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 59.319, 60.510, 60.530, 60.540, 60.560, 60.570, 60.580, 2 60.595, 60.610, and 60.620, RSMo, are repealed and ten new sections enacted in 3 lieu thereof, to be known as sections 59.319, 60.510, 60.530, 60.540, 60.560, 4 60.570, 60.580, 60.595, 60.610, and 60.620, to read as follows:

59.319. 1. A user fee of four dollars shall be charged and collected by 2 every recorder in this state, over and above any other fees required by law, as a 3 condition precedent to the recording of any instrument. The state portion of the 4 fee shall be forwarded monthly by each recorder of deeds to the state director of 5 revenue, and the fees so forwarded shall be deposited by the director in the state 6 treasury. Two dollars of such fee shall be retained by the recorder and deposited 7 in a recorder's fund and not in county general revenue for record storage, 8 microfilming, and preservation, including anything necessarily pertaining 9 thereto. The recorder's funds shall be kept in a special fund by the treasurer and 10 shall be budgeted and expended at the direction of the recorder and shall not be 11 used to substitute for or subsidize any allocation of general revenue for the 12 operation of the recorder's office without the express consent of the recorder. The 13 recorder's fund may be audited by the appropriate auditing agency, and any 14 unexpended balance shall be left in the fund to accumulate from year to year with

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 interest.

16           2. An additional fee of three dollars shall be charged and collected by  
17 every recorder in this state, over and above any other fees required by law, as a  
18 condition precedent to the recording of any instruments specified in subdivisions  
19 (1) and (2) of section 59.330. The fees collected from this additional three dollars  
20 per recorded instrument shall be forwarded monthly by each recorder of deeds to  
21 the state director of revenue, and the fees so forwarded shall be deposited by the  
22 director in the state treasury.

23           3. The state treasurer and the commissioner of administration shall  
24 establish an appropriate account within the state treasury and in accordance with  
25 the state's accounting methods. Any receipt required by this section to be  
26 deposited in the [general revenue fund] **state treasury** shall be credited as  
27 follows:

28           **(1) The amount of one dollar for each fee collected under subsection 1 of**  
29 **this section [to an account to be utilized for the purposes of sections 60.500 to**  
30 **60.610] shall be credited to the "Missouri Land Survey Fund" which is**  
31 **hereby created to be utilized for the purposes of sections 60.510 to**  
32 **60.620 and section 60.670. The state treasurer shall be custodian of the**  
33 **fund and may approve disbursements from the fund in accordance with**  
34 **sections 30.170 and 30.180. Any funds previously collected by the state**  
35 **treasurer to be utilized for the purposes of sections 60.510 to 60.610 and**  
36 **section 60.670 shall transfer to the Missouri land survey fund. Any**  
37 **portion of the fund not immediately needed for the purposes authorized**  
38 **shall be invested by the state treasurer as provided by the constitution**  
39 **and laws of this state. All income from such investments shall be**  
40 **deposited in the Missouri land survey fund. Any unexpended balance**  
41 **in the fund at the end of the fiscal year is exempt from the provisions**  
42 **of section 33.080 relating to the transfer of unexpended balances to the**  
43 **general revenue funds. Any interest and moneys earned on such**  
44 **investments shall be credited to the fund;**

45           **(2) The amount of one dollar for each fee collected under subsection 1 of**  
46 **this section to an account to be utilized by the secretary of state for additional**  
47 **preservation of local records; and**

48           **(3) The amount of three dollars collected under subsection 2 of this**  
49 **section into the Missouri housing trust fund as designated in section 215.034.**

60.510. The functions, duties and responsibilities of the department of

2 natural resources shall be as follows:

3 (1) To restore, maintain, and preserve the land survey monuments, section  
4 corners, and quarter section corners established by the United States public land  
5 survey within Missouri, together with all pertinent field notes, plats and  
6 documents; and also to restore, establish, maintain, and preserve **Missouri state**  
7 **and county boundary markers and** other boundary markers considered by  
8 the department of natural resources to be of importance, or otherwise established  
9 by law;

10 (2) To design and cause to be placed at established public land survey  
11 corner sites, where practical, substantial monuments permanently indicating,  
12 with words and figures, the exact location involved, but if such monuments  
13 cannot be placed at the exact corner point, then witness corners of similar design  
14 shall be placed as near by as possible, with words and figures indicating the  
15 bearing and distance to the true corner;

16 (3) To establish, maintain, and provide safe storage facilities for a  
17 comprehensive system of recordation of information respecting all monuments  
18 established by the United States public land survey within this state, and such  
19 records as may be pertinent to the department of natural resources'  
20 establishment or maintenance of other land corners, Missouri state coordinate  
21 system stations and accessories, and **survey** monuments in general;

22 (4) To [extend throughout this state a triangulation and leveling net of  
23 precision, whereby] **provide the framework for all geodetic positioning**  
24 **activities in the state. The foundational elements include latitude,**  
25 **longitude, and elevation which contribute to informed decision making**  
26 **and impact on a wide range of important activities including mapping**  
27 **and geographic information systems, flood risk determination,**  
28 **transportation, land use and ecosystem management and use of the**  
29 Missouri state coordinate system, as established by [section 60.400, may be made  
30 to cover to the necessary extent those areas of the state which do not now have  
31 enough geodetic control stations to permit the general use of the system by land  
32 surveyors and others] **sections 60.401 to 60.491;**

33 (5) To collect and preserve information obtained from surveys made by  
34 those authorized to establish land monuments or land boundaries, and to assist  
35 in the proper recording of the same by the duly constituted county officials, or  
36 otherwise;

37 (6) To furnish, upon reasonable request and tender of the required fees

38 therefor, certified copies of records created or maintained by the department of  
39 natural resources which, when certified by the state land surveyor or a  
40 designated assistant, shall be admissible in evidence in any court in this state,  
41 as the original record;

42 (7) To prescribe, and disseminate to those engaged in the business of land  
43 surveying, [advisory] regulations designed to assist in uniform and professional  
44 surveying methods and standards in this state[]; and

45 (8) To select and appoint a state land surveyor, who shall be the chief  
46 administrative officer of the authority, and who shall hold office at the pleasure  
47 of the authority].

60.530. The state land surveyor shall, under guidance of the department  
2 of natural resources **and with the recommendation of the land survey**  
3 **commission**, carry out the routine functions and duties of the department of  
4 natural resources, as prescribed in sections [60.500 to 60.610] **60.510 to 60.620**  
5 **and section 60.670**. He **or she** shall, whenever practical, cause all land  
6 surveys, except geodetic surveys, to be executed, under his **or her** direction by  
7 the registered county surveyor or a local registered land surveyor when no  
8 registered county surveyor exists. He **or she** shall perform such other work and  
9 acts as shall, in the judgment of the department of natural resources **and with**  
10 **the recommendation of the land survey commission**, be necessary and  
11 proper to carry out the objectives of sections [60.500 to 60.610] **60.510 to 60.620**  
12 **and section 60.670** and, within the limits of appropriations made therefor and  
13 subject to the approval of the department of natural resources **and the state**  
14 **merit system**, employ and fix the compensation of such additional employees as  
15 may be necessary to carry out the provisions of sections [60.500 to 60.610] **60.510**  
16 **to 60.620 and section 60.670**.

60.540. The department of natural resources may acquire, in the name of  
2 the state of Missouri, lands or interests therein, where necessary, to establish  
3 permanent control stations; and may lease or purchase or acquire by negotiation  
4 or condemnation, where necessary, land for the establishment of an office of **the**  
5 **land survey program** of the department of natural resources. If condemnation  
6 is necessary, the attorney general shall bring the suit in the name of the state in  
7 the same manner as authorized by law for the acquisition of lands by the state  
8 transportation department.

60.560. Upon request, the state attorney general shall advise the **land**  
2 **survey commission**, department of natural resources, or the state land surveyor

3 with respect to any legal matter, and shall represent the **land survey**  
4 **commission or** department of natural resources in any proceeding in any court  
5 of the state in which the [authority] **land survey commission or land survey**  
6 **program** shall be a party.

60.570. The permanent headquarters of the [state land survey authority]  
2 **land survey program** shall be at or near to the principal office of the Missouri  
3 state geological survey. Until such time as other headquarters can be obtained  
4 by the [authority] **land survey program**, the state geologist shall assign such  
5 space in the state geological survey building as may be available. The [authority]  
6 **land survey program** may also establish and maintain regional offices in the  
7 metropolitan areas of the state for the storage and distribution of local survey  
8 record information.

60.580. The state land surveyor or any and all employees of the  
2 department of natural resources have the right to enter upon private property for  
3 the purpose of making surveys, or for searching for, locating, relocating, or  
4 remonumenting land monuments, leveling stations, or section corners. Should  
5 any of these persons necessarily damage property of the owner in making the  
6 surveys or searches or remonumentations, the department of natural resources  
7 may make reasonable payment for the damage from funds available for that  
8 purpose. However, department of natural resources employees are personally  
9 liable for any damage caused by their wantonness, willfulness or negligence. All  
10 department of natural resources employees are immune from arrest for trespass  
11 in performing their legal duties as stated in sections [60.500 to 60.610] **60.510**  
12 **to 60.620 and section 60.670.**

60.595. 1. The "Department of Natural Resources Revolving Services  
2 Fund" is hereby created. All funds received by the department of natural  
3 resources from the delivery of services and the sale or resale of maps, plats,  
4 reports, studies, records and other publications and documents **and surveying**  
5 **information, on paper or in electronic format** by the department shall be  
6 credited to the fund. The director of the department shall administer the  
7 fund. The state treasurer is the custodian of the fund and shall approve  
8 disbursements from the fund requested by the director of the department. When  
9 appropriated, moneys in the fund shall be used to purchase goods [or],  
10 **equipment, hardware and software, maintenance and licenses, software**  
11 **and database development and maintenance, personal services, and**  
12 **other** services that will ultimately be used to **provide copies of information**

13 **maintained or provided by the land survey program**, reprint maps,  
14 publications or other documents requested by governmental agencies or members  
15 of the general public; to publish the maps, publications or other documents or to  
16 purchase maps, publications or other documents for resale; and to pay shipping  
17 charges, laboratory services, core library fees, workshops, conferences,  
18 interdivisional cooperative agreements, but for no other purpose.

19 2. An unencumbered balance in the fund at the end of the fiscal year not  
20 exceeding one million dollars is exempt from the provisions of section 33.080  
21 relating to the transfer of unexpended balances to the general revenue fund.

22 3. The department of natural resources shall report all income to and  
23 expenditures from such fund on a quarterly basis to the house budget committee  
24 and the senate appropriations committee.

60.610. Whenever the department of natural resources deems it expedient,  
2 and when funds appropriated permit, the department of natural resources may  
3 enter into any contract with agencies of the United States, with agencies of other  
4 states, or with private persons, registered land surveyors or professional  
5 engineers, in order to plan and execute desired land surveys or geodetic surveys,  
6 or to plan and execute other projects which are within the scope and purpose of  
7 sections [60.500 to 60.610] **60.510 to 60.620 and section 60.670**.

60.620. 1. There is hereby created the "Land Survey [Advisory  
2 Committee] **Commission**", within the department of natural resources. The  
3 [committee] **commission** shall consist of [five] **seven** members appointed by the  
4 director of the department of natural resources. Members of the [committee]  
5 **commission** shall hold office for terms of three years, but of the original  
6 appointments, [two] **three** members shall serve for one year, two members shall  
7 serve for two years, and [one member] **two members** shall serve for three  
8 years. **Members may serve only three consecutive terms on the**  
9 **commission**.

10 2. The [advisory committee] **land survey commission** shall consist of  
11 persons who reside in this state and are not employed by the department of  
12 natural resources. [Three] **Four** members shall be registered land surveyors, one  
13 of which shall be a county surveyor. One member shall represent the real estate  
14 or land title industry. **Two members shall be public members**.

15 3. The [advisory committee] **land survey commission** shall elect a  
16 chairman annually. The [committee] **commission** shall meet semiannually and  
17 at other such times as called by the chairman of the [committee] **commission**

18 and shall have a quorum when at least [three] **four** members are present.

19           4. The [advisory committee] **land survey commission** members shall  
20 serve without compensation but shall be reimbursed for actual and necessary  
21 expenses incurred in the performance of their official duties.

22           5. The [advisory committee] **land survey commission** shall provide the  
23 director of the department of natural resources [with advice and counsel on] **and**  
24 **the state land surveyor with recommendations on the operation and** the  
25 planning and prioritization of the **land survey** program and the design of  
26 regulations needed to carry out the functions, duties, and responsibilities of the  
27 department of natural resources **under sections 60.510 to 60.620 and section**  
28 **60.670.**

29           6. The **land survey commission** shall recommend to the  
30 **department of natural resources a person to be selected and appointed**  
31 **state land surveyor, who shall be the chief administrative officer of the**  
32 **land survey program and deputy director of the division of geology and**  
33 **land survey, and who shall hold office at the pleasure of the director of**  
34 **the department of natural resources. The state land surveyor shall be**  
35 **selected under the state merit system on the basis of professional**  
36 **experience and registration.**

37           7. The [committee] **commission** shall, at least annually, prepare a  
38 report, which shall be available to the general public, of the review by the  
39 [committee] **commission** of the land survey program, stating its findings,  
40 conclusions, and recommendations to the director.

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